

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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EUGENE CHRISTOPHER BANKS,

Case No. 12-CV-2901 (ADM/TNL)

Plaintiff,

v.

REPORT AND RECOMMENDATION

LUCINDA JESSON; DENNIS BENSON;  
KEVIN MOSER; RONALD THEODORE  
FISCHER; JEFFREY D. LAINE; JUSTIN  
JOSLIN; MATTHEW BROWN; ANDREW  
KVIEN; STEVE RONNING; NATHAN  
CROTTEAU; WILLIAM GULLICKSON;  
MATTHEW DAHL; MICHAEL GLAVAN;  
TIMOTHY PETERSON; and DANIEL  
WILLIAMS, in their official and individual  
capacities,

Defendants.

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Plaintiff Eugene Christopher Banks, a civil detainee at the Minnesota Sex Offender Program (“MSOP”), alleged in his complaint that MSOP officials violated his constitutional rights by subjecting him to a strip search and by using excessive force during that search. In an order dated April 27, 2016, this Court noted several deficiencies in Banks’s complaint and declined to grant *in forma pauperis* status. *See* ECF No. 9. Banks was given until June 1, 2016 to file an amended complaint stating a claim on which relief may be granted, failing which it would be recommended that this action be dismissed without prejudice for failure to prosecute. *See* Fed. R. Civ. P. 41(b).

That deadline has now passed, and Banks has not filed an amended complaint. In fact, Banks has not communicated with the Court about this case at all since commencing this action. Accordingly, this Court now recommends, in accordance with its prior order, that this action be

dismissed without prejudice under Rule 41(b) for failure to prosecute. *See Henderson v. Renaissance Grand Hotel*, 267 Fed. App'x 496, 497 (8th Cir. 2008) (per curiam) (“A district court has discretion to dismiss an action under Rule 41(b) for a plaintiff’s failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.”).

#### RECOMMENDATION

Based upon the foregoing, and on all of the files, records, and proceedings herein, IT IS HEREBY RECOMMENDED that this action be DISMISSED WITHOUT PREJUDICE under Fed. R. Civ. P. 41(b) for failure to prosecute.

Dated: June 10, 2016

s/Tony N. Leung  
Tony N. Leung  
United States Magistrate Judge

#### NOTICE

**Filing Objections:** This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), “a party may file and serve specific written objections to a magistrate judge’s proposed finding and recommendations within 14 days after being served a copy” of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. LR 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in LR 72.2(c).

**Under Advisement Date:** This Report and Recommendation will be considered under advisement 14 days from the date of its filing. If timely objections are filed, this Report and Recommendation will be considered under advisement from the earlier of: (1) 14 days after the objections are filed; or (2) from the date a timely response is filed.